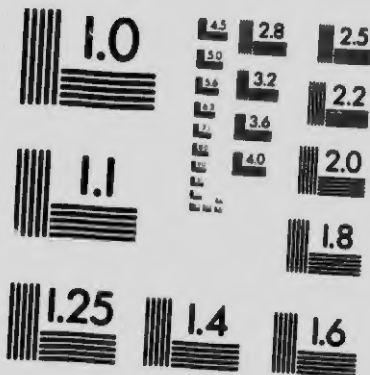


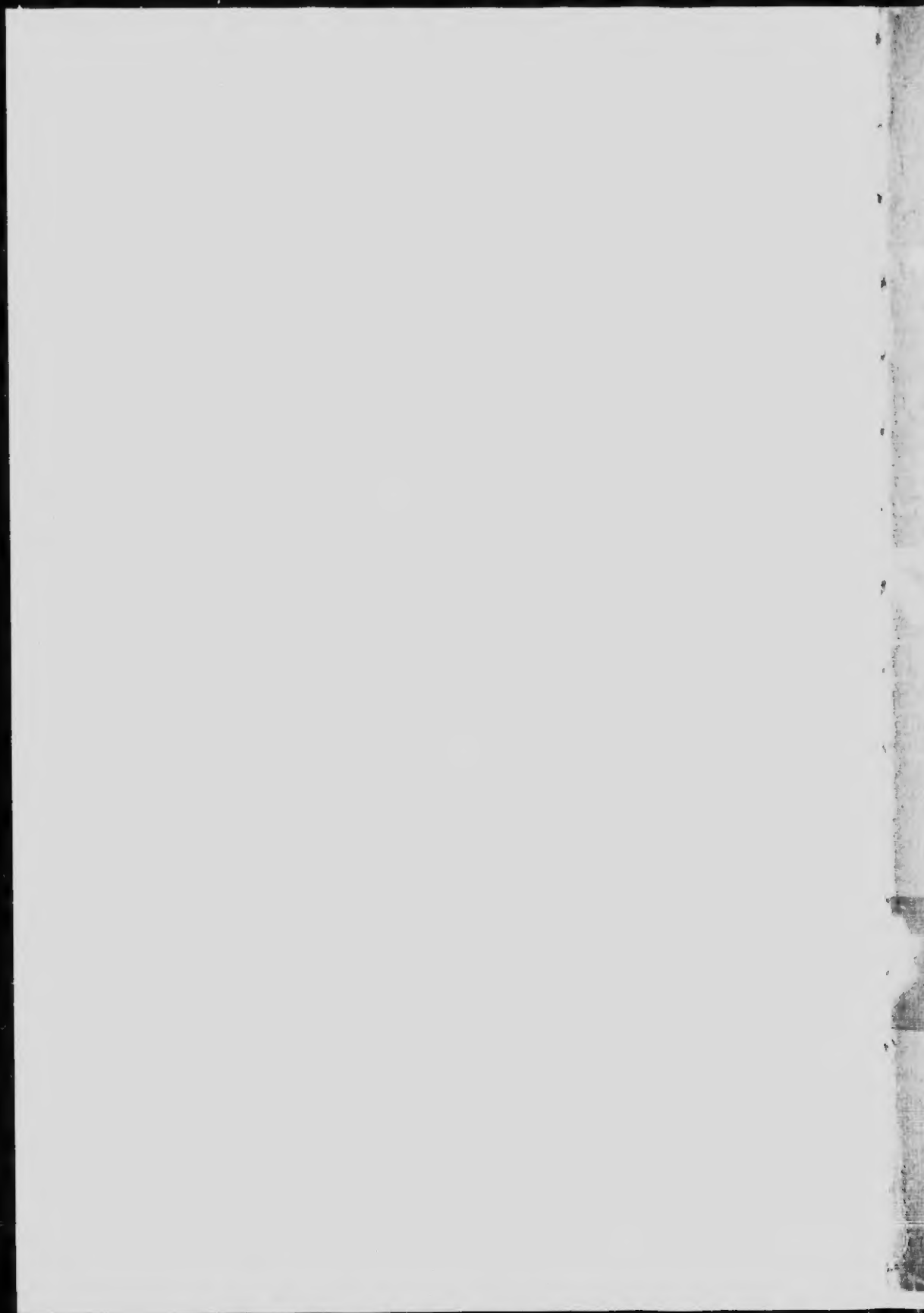
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**INTERNATIONAL TRADE RELATIONS AND RECIPRO-
CITY BETWEEN CANADA AND THE
UNITED STATES.**

A HISTORICAL SKETCH :

The Honourable Mr. Justice William Renwick Riddell, L.H.D., &c.,
King's Bench Division ; High Court of Justice, Ontario.



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THE ADAMANT
UNITED STATES

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WHEN in 1783 the definitive treaty of peace between the revolted colonies and the mother country came to be negotiated, the United States proposed that they should be allowed to participate in the trade of the rest of the colonies in the Western Hemisphere on equal terms with England herself, but this proposition, favoured as it was by many in England (Pitt amongst others), was not agreed to. Britain determined to retain the monopoly of that trade. In 1785 Mr. Adams, the American Minister at London, renewed the proposition, but he was informed with more decision than ceremony that it could not be entertained even as a subject for negotiation; and the same fate met a similar proposal in 1789. The Act 22, Geo. II, O. 1, placed the negotiation of the trade with the U. S. under the control of the King: he made regulations by Orders-in-Council beginning July 2nd, 1783, and continued annually till 1788, establishing a prohibitory system in regard to direct trade with the colonies except in a few cases, so that all traffic between the U. S. and the British Colonies had to be carried on exclusively in British ships.

The American Government was thus made aware of the hopelessness in the existing conditions of any attempt on their part to obtain or enjoy any participation in Canadian trade upon favourable terms, and consequently this particular proposition was not renewed for some years.

I pass over the little-known but very curious episode of the somewhat celebrated Ethan Allen, shortly after the treaty of peace, coquetting with Haldimand and Lord Dorchester (Sir Guy Carleton), Governors of Canada, looking toward a return of Vermont to the British Empire. The people coming into that State, he said, wanted "property not liberty"; and it is plain that he proposed by reunion with Britain to bring about

free trade for his State with Canada, an object sought by his brother in 1787 and by Silas Deane (who also made similar attempts in London) some time previously; these, however, do not seem to have suggested the political reunion of their State with Britain.

President Washington sent Jay, the Chief Justice of the Supreme Court of the United States, a man of the highest character and experience, as a special envoy to the Court of St. James'; and he at last secured a treaty.

Jay's treaty in 1794 did not assist so far as access to Canada was concerned; and it received the most violent denunciations both in and out of Congress, although there is now no question that it was the best England would agree to.

The troubles arising from the seizure by Britain of American ships led to the embargo of 1807 which brought about an Order-in-Council authorizing the Governors of the North American Colonies to open their ports to American vessels which had been excluded from them since 1783. In 1809 the British Minister at Washington, Mr. Erskine, offered the U. S. Government to repeal the Orders-in-Council under which the American vessels were being seized, if the Americans would renew their former commercial intercourse. This offer was accepted; but the British Ministry repudiated the Minister's action and non-intercourse was again proclaimed. At length, after nearly 1,000 American vessels had been captured, war broke out in 1812.

Whatever the original pretext may have been, all modern American historians of repute agree that the real object was the capture of Canada. There was for a time Reciprocity of capture at least, for the Americans captured Toronto, the capital of Upper Canada, and the British captured Washington. Each was guilty of acts of vandalism —though we hear most about those at Washington.

The Treaty of Ghent, Dec. 24th, 1814, by which this war was closed, left in the hands of Britain the exclusive right to all the direct trade with her colonies and the Americans lost the benefits they might have enjoyed under the Order-in-Council of 1807 —the only colonial trade they had was carrying goods from Britain to the colonies, thence to the United States and thence to Britain. Britain finally rejected the overture of

the United States to place colonial trade on the same footing as direct trade.

Complaints became frequent and insistent, and early in 1817 Congress attempted retaliation, restricting importations in foreign vessels to articles of growth or manufacture of the country to which the vessel belonged.

In 1817, Lord Castlereagh proposed to the American Minister at London to allow American vessels of one deck a limited trade with a portion of the colonies; but this was refused, and another and more severe retaliatory Act was passed by Congress in 1818, and another in 1820; then came non-intercourse again.

In 1824 the Americans got tired of this and gave the President power to make arrangements with European powers who should meet the United States on terms of equality. But the Governments could not agree: Parliament did indeed in 1825 pass an Act under the provisions of which it was hoped that commercial peace would be brought about, but the attempt to pass corresponding legislation in Congress was unsuccessful. Then came another Order-in-Council declaring the total cessation of trade between the United States and most of the Colonial ports—and Mr. Gallatin, the American Minister, was instructed to accept by treaty practically the same terms as had been offered to his predecessor, Mr. Rush, in 1824—but by this time the British Government had got tired of the attempt to arrange terms and promptly and definitely announced that they would not consider the matter further. In 1827 the President drew the attention of Congress to the matter; and a bill was introduced to meet the last Order-in-Council; this failed to pass, but the President issued a proclamation which had substantially the same effect—then came another Order-in-Council, and Mr. Gallatin renewed his efforts to have the matter put on a satisfactory footing, suggesting legislation instead of a treaty. Lord Dudley did not even reply to the proposition, and upon Mr. Gallatin going direct to the Prime Minister, Mr. Canning's curt answer was an expression of surprise that any doubt could exist as to the final determination of the British Government on the subject. Application was made by the American Minister again and again with the same want of success.

In 1830, however, a limited arrangement was made by McLane, President Jackson's Minister at London, which, though the trade was carried on under heavy duties and restraints, gave a measure of relief and which continued in force till the Reciprocity Treaty of 1854. So far, it was chiefly the United States who sought freedom of commercial intercourse with the British Colonies,—the colonies themselves were rather indifferent than otherwise in the matter. In 1843, Britain gave a preference to Canadian wheat, etc.

But soon the repeal of the Corn laws and timber duties in Britain left Canada without a market, and Stanley declared that the basis of colonial union was destroyed. Britain seeking to extend her trade sought New York and Boston rather than Montreal and Quebec. Canada awoke to the necessity of finding markets for her own output: she had lost her preference in the British market for her wheat, flour and other articles of export and her mill owners, forwarders and merchants were on the verge of ruin or beyond.

In 1846, the Legislature of Canada passed an address to the Queen asking that if the grain of the United States should be admitted free into Great Britain, the grain, etc., of Canada should be admitted free into the United States. But "Converts are always enthusiasts"; and Great Britain was too ardent a convert to her new creed of Free Trade to stipulate with the United States for any Reciprocity. Congress in the same year passed legislation permitting Canadian bonded exports and imports to pass through the United States—this giving large profits to the merchants and carriers and filled with traffic the canals of New York; but it did not tend to build up Canadian cities and ports. The British Minister, Mr. Pakenham, took the matter up with the American Government, who proved to be favourably disposed toward free trade with Canada, and it was proposed to proceed by concurrent legislation in the United States and Canada.

In 1847, Mr. W. H. Merritt introduced his celebrated Reciprocity resolutions in the Canadian Legislature and procured a delegation to Washington to promote the scheme. In 1848 Mr. Grinnell introduced a bill into the House of Representatives to accept the proffered Reciprocity and the bill passed without opposition. The British Minister did not look upon

the measure with entire approval, while the American Government was actively hostile. The bill failed to pass in the Senate, it was said, on account of pressure of other business. In 1849, Canada tried again and Mr. Merritt went again to Washington, but again the Senate failed to pass the bill for the same alleged reason as before, and the President declined to take the matter up under his treaty-making power.

In the same year, however, Mr. Eastman was sent by the American Secretary of State as a special agent to Canada and the Lower Colonies ("Canada" was then only what is now "Ontario" and "Quebec") to collect information, and in 1850 a Reciprocity Bill was reported to the House of Representatives from the Committee of Commerce; but the death of President Taylor prevented any further action that year. In 1851 Andrews was appointed special agent, and in 1852 the Chamber of Commerce of New York asked Congress to obtain Reciprocity. Mr. Hincks (afterwards Sir Francis Hincks) had gone to Washington in 1851 in the attempt to have the original measure passed but, failing, he recommended retaliation, closing canals to American vessels and a prohibitory duty on American manufactures; while Merritt proposed that Great Britain should be asked to levy the same duties against the United States as the United States levied against Canada. Neither plan was adopted. After 1851, no serious attempt was made to obtain reciprocal trade by means of concurrent legislation.

Considerable trouble occurred shortly afterwards in reference to the Atlantic fisheries; and these being arranged the President late in 1852 and 1853 recommended Congress to enter into a Convention concerning Reciprocity, the Fisheries, etc. This was not done. In 1853 the new President, Pierce, took the matter up. Lord Elgin, then Governor-General of Canada, went to Washington with Mr. Hincks, then Prime Minister of Canada, the celebrated Lawrence Oliphant being private secretary to Lord Elgin. A treaty was signed, "floated through on champagne", it is said. Anyone who wishes to know something of the manner in which matters even of momentous importance internationally are settled and "with what little wisdom the world is governed" cannot do better than read Oliphant's amusing account of Lord Elgin's negotiations at Washington.

"The treaty was signed on June 5th, 1854, by Lord Elgin on the part of Great Britain, and by the Honourable W. L. Marcy, Secretary of State, on behalf of the United States, but it did not legally come into force until it had been formally ratified by the Parliament of Great Britain, the Congress of the United States in 1854, and the several legislatures of the British provinces. It was brought into force formally by the President's proclamation, March 16th, 1855. It exempted from customs duties on both sides of the line certain articles which were the growth and produce of the British colonies and of the United States, the principal being grain, flour, breadstuffs, animals, fresh, smoked and salted meats, fish, lumber of all kinds, poultry, cotton, wool, hides, ores of metal, pitch, tar, ashes, flax, hemp, rice, and unmanufactured tobacco. The people of the United States and of the British provinces were given an equal right to navigate the St. Lawrence river, the Canadian canals, and Lake Michigan. No export duty could be levied on lumber cut in Maine and passing down the St. John or other streams in New Brunswick. The most important question temporarily settled by the treaty was the fishery dispute which had been assuming a troublesome aspect for some years previously. . ."

The United States had claimed that the three mile limit outside of which they might fish followed the sinuosities of the coast: British America supported by the Home authorities contended that the three mile limit should be measured from a line drawn from headland to headland of all bays and harbours and creeks.

"In the case of the Bay of Fundy, however, the Imperial government allowed a departure from this general principle when it was urged by the Washington government that one of its headlands was in the territory of the United States, and that it was an arm of the sea rather than a bay. The result was that foreign fishing vessels were shut out only from the bays on the coasts of Nova Scotia and New Brunswick within the Bay of Fundy. All these questions were, however, placed in abeyance for twelve years, by the Reciprocity Treaty of 1854, which provided that the inhabitants of the United States could take fish of any kind, except shell fish, on the sea coasts, and shores, in the bays, harbours and creeks of any British province, without any restriction as to distance, and had also

permission to land on these coasts and shores for the purpose of drying their nets and curing their fish. The same privileges were extended to British citizens on the eastern sea coasts and shores of the United States, north of the 36th parallel of north latitude—privileges of no practical value to the people of British North America compared with those they gave up in their own prolific waters. . . .”

A great impetus was given by this treaty to trade between the United States and the British American provinces; during the eight years after the treaty it amounted to \$400,000,000. Canada bought of the United States more than of all the rest of the world beside; and another curious fact, the imports and exports of Quebec declined nearly one-third and those of Toronto vastly increased, showing that much of the trade which formerly came by way of Quebec was transferred to Lake Ontario. As Mr. Derby, the Commissioner of the United States Treasury, said, “It quintupled our trade with the provinces, gave an impulse to public improvement and utilized the new canals, railways and active avenues of commerce.”

An attempt made in 1858 to extend Reciprocity and another in 1859 failed, but the treaty of 1854 remained in force. It was far from satisfactory even to its friends, and it had many enemies—Buffalo amongst them—described by one of her orators at the Detroit Convention as the city at one end of the Empire State, standing with one arm on the Lakes and the other upon the Ocean. But the treaty was not denounced by reason of its defects or the assaults of those who opposed it on economic grounds. The rising tide of Protection had indeed some influence in bringing about the abrogation of the treaty, but that was far from being the chief cause; Goldwin Smith is wholly right when he says the treaty fell a victim to the anger which the behaviour of a party in England had excited in America.

The upper classes in England were no doubt sympathisers with the South in the Civil War: and the North was exceedingly angry at this sympathy. As early as 1860, indeed, the House of Representatives requested the President to supply information as to the working of the treaty: and from this time on, there were constant discussions and continued controversy between friend and foe of the reciprocity policy. In 1864

a resolution was passed in the House of Representatives for an abrogation of the treaty conditionally on failure to arrange suitable modifications. The Senate in 1865 amended this bill by providing for unconditional abrogation, and the House concurred in the amendment; the treaty terminated March 17th, 1866.

Politicians in the United States had been outspoken in the view that the complete abrogation of trade between Canada and the United States would bring about the speedy annexation of the former—the word was “starve the Canadians into annexation,” “compel them to a close union, a political union as well as commercial—not partial but entire and complete.” The Consul-General of the United States at Montreal openly expressed sentiments of this character at a public meeting at Detroit, and many a man was urged in terms such as these: “Sustain Reciprocity and you establish monarchy in British North America; defeat it and you ensure the triumph of republicanism over this continent.” In vain did men like Joseph Howe say, “No consideration of finance, no question of balance for or against them upon interchanges of commodities can have any effect upon the loyalty of the British Provinces, or tend in the slightest degree to alienate the affections of the people from their country, their institutions, their government and their Queen. There is not a man who dare, on the abrogation of the treaty, if such should be its fate, take the hustings and appeal to any constituency on annexation principles throughout the entire domain.”

I have elsewhere thus described the results which followed the abrogation of the Reciprocity Treaty.

“Once it seemed as though we should be a mere appanage (commercially) of this greater community to the South—the gods decided otherwise. The Reciprocity treaty, procured with so much trouble, was denounced; and Canada had necessarily to seek other markets. Much suffering ensued—I know whereof I speak—but no word of weak complaining was heard—the United States had a right to do as they did, and hard hit as Canada was, she recognized that right. But she had then to seek new markets—and, what was more difficult, must adapt her output to the new markets. Time and again was the attempt made to procure more favourable consideration for her

products, from the authorities at Washington. As often was the attempt a failure. . . . And the manner in which my country has gone through her years of trouble and anxiety, of penury and care, till now, with her new avenues of trade well beaten and her commerce thoroughly established, she can look the whole world in the face and challenge admiration, is known to all who keep track of the world's commercial and industrial history.

"Mistakes have been made, of course—people who do not make mistakes, do not make anything else—but neither man nor nation can afford to waste time in regrets and compunctions about the past—the present is ours, and that is all that is ours—and I much mistake the temper of my countrymen if they are not determined to make the very most of that golden present. We treasure no resentment—wisdom will never let us stand unnecessarily with any man or nation on an unfriendly footing. Wholly recognizing that every nation of necessity has, and should exercise, the right to make a customs tariff to suit itself, my people say they, too, will do what is right in their own eyes. We did not seek a tariff war with Germany, but we did not wince or falter when it came."

Important results followed the abrogation of the treaty; the Federation of the Provinces then under consideration was hastened on and became an accomplished fact within fifteen months, the project of an Intercolonial Railway which had been allowed to lapse was taken up with vigour and pushed on, Commissioners were sent to British and other West India Islands to seek trade, the canals were enlarged, ocean and river steamship lines projected and subsidised, and ship-building received a vigorous impetus. The traffic between the United States and Canada fell from an average during the three years before the repeal, of \$75,000,000 per annum, to an average of \$57,000,000 per annum for the three years after the repeal. The trade of the Dominion speedily recovered from the blow, and soon overtook and far surpassed its former figures.

Delegates from Canada went to Washington in January, 1866, and remained a fortnight in the endeavour to negotiate a new treaty, but without effect.

In March a bill for the same purpose was introduced in the House of Representatives but failed to pass.

Both parties in Canada were and for long continued to be anxious for Reciprocity to be renewed: and it was not till after statesmen of both parties had been received with coldness and their approaches rejected, sometimes with scant courtesy, that the project was looked upon as hopeless, and Canada reconciled herself to work out her destiny without the supposed advantage of friendly and favourable trade relations with the more numerous people to the South. One instance of attempt on Canada's part may be specifically referred to.

George Brown, one of the two most noted men and most powerful politicians in Canada, had as early as 1863 urged the Canadian Government to prepare for the renewal of the treaty. He considered the arrangement beneficial for both countries. Negotiations failed in 1866, and when the Treaty of Washington was negotiated in 1871, Sir John A. Macdonald made another vigorous attempt to procure Reciprocity. Upon the defeat of the Macdonald administration, the new Mackenzie government in 1874 requested Mr. Brown to make another effort (he had been informed that there was a feeling, if not a movement, at Washington favourable to more amicable trade relations).

An Imperial Commission issued in March (1874) appointing the British Ambassador at Washington, Sir Edward Thornton, and Mr. Brown Commissioners to negotiate a treaty of fisheries and commerce with the United States. A treaty was signed which approached unrestricted reciprocity, but this being sent to the Senate for confirmation and by that body referred to the Foreign Relations Committee, never was reported, and so failed to come into operation.

This result, coupled with the fate of several treaties between Britain and the United States, seems to indicate that it is not unwise to carry out international agreements to which the United States is a party, by concurrent legislation rather than by treaty.

